

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 4, 2010

Members in Attendance

Jeffrey Staub, Chairman
Sara Jane Cate, Vice Chairperson
David Dowling
Richard Freeburn
Gregory Sirb

Also in Attendance

Dianne Moran, Planning & Zoning Officer
James Turner, Solicitor

Docket #1272

Applicant: Szeles Real Estate Development Co.
Address: 945 East Park Drive, Suite 201
Property: Spring Hill/Falcon Ridge Developments
Interpretation: Maximum sign area of 32 square feet.
No sign shall be located within the sight distance triangle.
Grounds: Articles 714.A, and 705.A, of the Lower Paxton Township
Zoning Ordinance pertain to this application.
Fees Paid: January 6, 2010
Property Posted: January 26, 2010
Advertisement: Appeared in The Paxton Herald on January 20 & 27, 2010
The hearing began at 7:00 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicants had no objection to its doing so.

The following were sworn in: Aleric James Busher, BL Companies, 213 Market Street, Harrisburg; and Dianne Moran, Planning & Zoning Officer. The applicant was represented by Attorney Susan Smith of Smith Cartright, 3009 Market Street, Camp Hill, PA 17011.

Ms. Smith stated that the original application included a request for relief from the 10' setback requirement, however it has since been confirmed that the proposed sign will not encroach into the setback area.

Ms. Smith directed the Board members to the photograph of the proposed sign, which includes a shared platform, for two signs: one for each separate development. The original application included a request from relief of sign area and both signs were proposed to be larger than permitted. The applicant is willing to reduce the total of the two signs' square footage to the allowable amount of combined square footage. One sign

may be larger than the other, but together they will not exceed the combined allowance. Ms. Smith explained that each sign is allowed to be 32 square feet, so together there is 64 square feet allowed, and while one sign may be larger than 32 square feet, the two together will not be more than 64 square feet. The proposed sign does not exceed the height requirement.

Mr. Dowling asked if there are two distinct neighborhoods. Ms. Smith stated there are two neighborhoods, and they are owned by two development entities. Article 714.A permits two neighborhood community identification signs at each entrance. The entrance is a shared entrance for both developments, so they would like the two signs on a shared base, with the ability to allocate the square footage. Mr. Turner stated that the proposal is that one sign may be 40 square feet while the other may be 24 square feet, total not to exceed 64 square feet.

Mr. Freeburn asked the Township's position on the sign area, specifically about two signs on a shared base. Ms. Moran stated this is the first request of its kind, but the ordinance does allow two identification signs at each entrance. She noted it does not seem objectionable to have the two signs sit next to each other. Mr. Freeburn asked if it is considered one sign or two if it is on a common platform. Ms. Smith noted that one sign has a platform which sits on top of the larger sign which has a foundation underground.

Mr. Freeburn did not have a problem with it, but noted the situation could be abused, it could also be separated by an inch. Ms. Moran stated there is no setback requirement between signs.

Ms. Cate questioned why one sign should be larger than the other. Ms. Smith stated it is designed to give a clear visual distinction between the two developments.

Mr. Staub asked if Ms. Moran agrees that the variance request for the 10' setback is not required. Ms. Moran answered yes.

Mr. Staub stated that the sign is to be located in a landscaped median. He suggested that a vehicle traveling on Lyters Lane could not see vehicles approaching the intersection from the development.

Ms. Smith introduced Al Busher, a professional engineer, licensed in the Commonwealth, who has practiced for about 10 years. Mr. Freeburn asked about Mr. Busher's experience, and if it included road design and building design. Mr. Busher stated he is a civil engineer, with a focus on land development, with a little bit of road design, and a lot of residential subdivisions and commercial developments. Mr. Freeburn asked if Mr. Busher has done work for PennDOT or designed public roadways. Mr. Busher stated he has not worked for PennDOT, but has done HOP permitting. He added that he has done public road design for commercial subdivisions in Susquehanna Township.

Ms. Smith distributed Exhibit 1, which is a two-page exhibit showing the detail of the area where the sign is proposed to be located, and photographs taken in recent weeks. Mr. Busher stated he is familiar with the area and with the development which it serves. He stated that the sign is at the intersection of Creek Crossing Road and Lyters Lane, and the residential development is a flag shaped lot with a 60-foot wide frontage onto Lyters Lane. Neither of the neighboring properties is owned by the applicant or part of the development. They are privately owned and occupied properties with mature landscaping, including evergreens and deciduous trees. The entrance to the development was intentionally designed as a boulevard with a median, with the intent of serving as a traffic calming measure. The two features intended for the median were landscaping and a sign. Creek Crossing Drive connects Lyters Lane in Hodges Heights to Jefferson Street in Rutherford Heights. There is a stop sign and a stop bar at the intersection. The stop bar is halfway up the radius or about 10 feet back from the edge of the cartway. The sign will be about 28 feet back from the edge of the cartway of Lyters Lane, which puts it about 18 feet behind the stop bar. There is room for one or more vehicles at the stop bar and still not at the median.

Mr. Busher stated that Lyters Lane connects Conway Road and Page Road, and much of the traffic on Lyters Lane is not entering or leaving the development. The posted speed limit is 35 mph.

Mr. Busher explained that there is a temporary sign identifying one of the two developments. Photos B and C show the temporary identification sign in the median, which is the proposed location for the proposed permanent sign.

Mr. Dowling asked if the proposed sign is in the sight triangle. Mr. Busher said it is. Mr. Dowling asked if Mr. Busher has done work for any municipalities. Mr. Busher answered that he has not. Mr. Dowling asked Mr. Busher to think of a situation where he would recommend to a municipal board to allow a developer to place a sign in the sight triangle on a road like this. Mr. Busher stated he thinks this situation has conditions that make it practical. If he were the municipal engineer, he would not argue against this proposal because there is no obstruction by the sign for vehicles sitting at the stop bar or approaching vehicles in both directions. He added that moving the sign into the sight triangle may allow approaching vehicles to see it sooner, so those vehicles that are entering the developments can react to it sooner.

Mr. Dowling questioned the purpose of the sight triangle. Mr. Busher stated it is to keep obstructions out of areas that would create an unsafe condition. Mr. Dowling suggested the remedy is to not have a sign in the sight triangle or reduce the sign so that it does not obstruct the sight triangle. Mr. Busher agreed the sign is in the sight triangle, but it is not creating an unsafe condition or blocking the view of the stopped vehicles.

Mr. Freeburn asked the name of the developer. Mr. Busher stated that Szeles Real Estate Development Company owns it. Mr. Freeburn suggested that someone involved in an accident at the intersection may have a claim against the developer if the accident was a result of an obstructed view. Ms. Smith explained that there is no

obstruction, because of the layout. Mr. Freeburn stated that there may be a problem at that intersection, regardless of Mr. Busher's testimony. Mr. Freeburn noted the Township has a responsibility for public safety. While he cannot speak to the private interests of a property owner, there is the reason for the ordinance which does not allow anything in the sight triangle. Ms. Smith suggested that additional testimony could help the Board understand the circumstances. There is no unsafe condition created by the relationship between the traveling public on Lyters Lane and the those attempting to make a safe turn on the 35-mph road. There is a need to identify the location of the neighborhoods so drivers can make the turn safely.

Mr. Freeburn stated that it seems to him that the applicant is saying that even though the ordinance says you cannot have something in the sight triangle, there are some circumstances under which you can have something in the sight triangle and it doesn't matter. Mr. Busher agreed. Mr. Freeburn did not think they could make that decision.

Mr. Freeburn stated they have not demonstrated a hardship. Ms. Smith stated she has begun to go down that path.

Ms. Smith stated that the applicant has never had control of either neighboring property, and there is only a 60-foot wide piece of property fronting Lyters Lane. There were designs put in place, including the landscape median, to operate as a traffic calming measure. The median functions to identify the intersection, slow traffic, alert drivers that there is a residential intersection there and a whole host of ways. It is part of the original design. The consequence is that the subdivision bows out at that point.

Mr. Freeburn asked if the outline shown on the drawing is where the sign would have to be to meet the requirements. Mr. Busher answered yes. Mr. Freeburn thought that it was the proposed location, which seemed like a good location. The current location is pretty bad, but the outlined area would be no problem.

Ms. Smith requested that Mr. Busher be allowed to continue his presentation to explain why that location is actually an unsafe location for a sign in this intersection arrangement. Mr. Freeburn assumed that the reason is that approaching vehicles cannot identify the Spring Hill development in enough time to make a safe turn. Mr. Busher noted that is essentially the idea, and added that there are mature trees there that do not belong to the developer, therefore, he cannot prune or cut down. This is illustrated in photo B.

Ms. Smith noted that in addition to the landscaping, if there was a vehicle entering the site, or more than one vehicle stacked to leave the site, those vehicles would obstruct the sign from the Lyters Lane traffic. Mr. Busher agreed the statement is true. Ms. Smith stated this is the key, the sign is so far into the site that other vehicles could block the sight of the sign, so that vehicles on Lyters Lane that need to see it and react to it and make a safe movement are going to have less than 100 feet to do that.

Mr. Freeburn stated that very smart people at PennDOT who do nothing but traffic and public street design have determined what a safe sight triangle is.

Ms. Smith asked if the sign as proposed meets PennDOT's standards. Mr. Busher stated it does. He explained that the standard is ten feet back from the edge of the cartway and 250 feet in either direction for a 35 mph condition. It is longer on Lyters Lane, but significantly shorter based on where the driver's eyes are when the vehicle is stopped.

Mr. Staub stated that "sight distance triangle" is not the same thing as a "clear sight triangle." A sight distance triangle is used to evaluate the safety of an intersection.

Mr. Staub asked if the applicant testified that the land development allowed for a sign in the median. Mr. Busher stated that, from what he understood, it is on the original drawing.

Mr. Staub stated that the street will be a public street, so it will be maintained by the Township's Public Works Department. He asked who will be responsible when the median requires maintenance. He questioned if a private developer build a neighborhood identification sign inside of a public right-of-way.

Ms. Smith stated she thinks the landscaping is maintained by the community, and it was part of the design for aesthetic purposes. It was discussed, and it is not atypical to have a sign maintained by the community. Mr. Staub stated it is not common in Lower Paxton Township to have neighborhood signs in a boulevard median.

Mr. Staub stated that the road is going to be Township owned and maintained, and if push comes to shove, that may include the median. He suggested that the Board of Supervisors and/or the Public Works Department should weigh in on the issue.

Mr. Sirb stated the boulevard entrance to Forest Hills has a sign in the median, but it is set back. He thought that a road with a speed limit of 35 mph provides ample time to see and react to the sign. At 35 mph in a residential area, Mr. Sirb did not buy the argument that the sign should be in the sight triangle. Even if the applicant can make an argument of why it is needed, he is not sure he would agree to put the sign in the sight triangle.

Mr. Sirb stated he could see a dangerous development occurring: an accident happens, why: I didn't see him; why: because the Zoning Board said the sign could be put in the sight triangle. Ms. Smith stated she could see that occur if the sign blocked the vehicle in the stop condition, however, there are photographs and illustrations that indicate that the vehicle in the stopped condition has an unimpeded view in both directions; he can see and he can be seen.

Mr. Freeburn did not know if he was qualified to make a ruling that this is okay when dealing with engineering standards and public safety. He suggested the Township

Engineer could come to the Zoning Hearing Board to determine if this were okay or not. He admitted that he does not know the difference between a clear sight triangle and a sight distance triangle. This is an area where he would like to hear from an expert rather than an applicant's testimony. He explained that is why he questioned Mr. Busher's qualifications. Ms. Smith stated that on a State Highway, this sign would not be objectionable.

Ms. Smith suggested the Board could table the hearing to request information from the Engineer.

Ms. Smith entered into the record that the design meets State design standards. Mr. Staub cautioned that they are two different things. It may meet PennDOT's sight distance criteria, but that is not the issue, the 75 foot clear sight triangle is the issue.

Mr. Freeburn could not vote in favor of something that could jeopardize public safety.

Mr. Dowling asked what the Engineer is going to tell the Board, and asked if it is enough to know that the sign is located in the sight triangle. Mr. Staub wanted to know if the Township Engineer agrees with Mr. Busher that even though the sign is in the clear sight triangle, that it does not obstruct the sight distance to the extent it is a safety concern.

Mr. Dowling asked about height requirements, and how that is a factor in the sight triangle. Ms. Smith stated that the photographs and illustrations demonstrate that height does not create a safety issue. Mr. Dowling asked if height does not create a safety issue, then what would. Ms. Smith stated it is the mere fact that the ordinance defines its own sight triangle twice the size of the State's regulation. She did not know what grounds that was established on. Mr. Staub stated there is a height standard within the sight triangle, but he did not recall the number. There is a threshold where an obstruction may be located within the clear sight triangle if it is lower than a certain height. Mr. Staub stated that this sign is clearly higher than the threshold. Mr. Busher stated that it does not change the fact that it is not an obstruction.

Mr. Freeburn stated he is open to giving a property owner an opportunity to explain their case and if more time is needed, that is fine as well. He noted that the Board could vote no tonight, then the applicant could reapply and bring more testimony.

Ms. Smith did not know if she could approach the Township Engineer and have them incur costs without the Township asking for the guidance of the Engineer.

Mr. Staub asked Ms. Moran to instruct HRG to review the application. Ms. Moran stated that she will. She noted that Mr. Szeles did meet with her, Matt Miller, and Lori Wissler on site, where they spray painted the area to look at. She asked what HRG should focus on: if the sign location is safe? Mr. Freeburn asked if they would come to the meeting. Ms. Moran stated they might, but they may also write a statement

explaining their review and determination. Mr. Freeburn stated he does not know what questions may arise. Mr. Sirb stated the question is if the signs are in the sight triangle, and if they are, does it cause an obstruction of the view. Mr. Staub wanted to know about the safety issues. Mr. Dowling asked that HRG determine if there are any set of circumstances under which the sign, as proposed, could pose a safety hazard. Mr. Freeburn wanted to know why there is a triangle and why the proposal is not a violation of one of the reasons for having the standard. He noted that if it is okay to put stuff in it, why couldn't any stuff be placed in any sight triangle. Ms. Smith asked the Board to be open to comments from HRG regarding the safety of the exiting and entering motorists. Ms. Cate asked about the passing motorist as well.

Mr. Dowling asked if having the sign further back from the intersection is more unsafe than having no sign at all. Ms. Smith stated yes, because it would not allow anyone to know where the entrance is to a fairly substantial development.

Mr. Dowling asked how people find the development now. Ms. Smith stated there is a temporary sign there now. Ms. Cate stated that most people rely on street signs to find streets.

Mr. Staub asked how the existing sign shown in the photographs came to be located there. He asked if a permit was issued. Ms. Smith thought it was allowed to be there during construction with the intent to erect a permanent sign.

Mr. Freeburn stated that the depicted location of the sign, out of the clear sight triangle, seems to be extremely reasonable. He noted that photograph C does show the trees in the way, but there has to be a reason for the standard, and it has to be explained to him as to why this does not violate those reasons.

Mr. Sirb stated he would like to hear from the Engineer, and then have the opportunity to make his own opinion after that.

There was no comment from the audience.

The Township had no position on the application.

Mr. Sirb made a motion to table the application. Mr. Freeburn seconded the motion and a unanimous vote followed.

The hearing was tabled at 7:45 pm.

Ms. Moran asked if the upcoming meeting has been advertised yet. The next hearing is February 25, 2010. Mr. Turner asked if the applicant felt they would be ready for that hearing. Ms. Smith asked if the hearing has to be readvertised if it is a continuation. Mr. Turner stated that it does.

Mr. Freeburn was cautious to cause the Township more expense, but felt it was important to hear from the Engineer. Mr. Sirb did not think the Township should incur the expense. Mr. Freeburn did not want the Township's Engineer to be working for the applicant when his role is to represent the Township, regardless of who pays the bill.

Mr. Staub asked for Mr. Stine's interpretation on whether a privately owned sign can be placed in the public right-of-way in the clear sight triangle.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "MHiner", written in a cursive style.

Michelle Hiner
Recording Secretary

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of March 25, 2010

Members in Attendance

Jeffrey Staub, Chairman
Sara Jane Cate, Vice Chairperson
David Dowling
Richard Freeburn
Gregory Sirb

Also in Attendance

Dianne Moran, Planning & Zoning Officer
James Turner, Solicitor

**Docket #1272
Continuation**

Applicant:	Szeles Real Estate Development Co.
Address:	945 East Park Drive, Suite 201
Property:	Spring Hill/Falcon Ridge Developments
Interpretation:	Maximum sign area of 32 square feet. No sign shall be located within the sight distance triangle.
Grounds:	Articles 714.A, and 705.A, of the Lower Paxton Township Zoning Ordinance pertain to this application.
Fees Paid:	January 6, 2010
Property Posted:	January 26, 2010
Advertisement:	Appeared in <u>The Paxton Herald</u> on January 20 & 27, 2010

The continuation hearing began at 7:04 pm.

The applicant was not present for the hearing. Mr. Turner suggested the Board consider the next hearing before taking action in case the representative from Szeles was running late. The other members agreed and the hearing was tabled until later in the meeting.

The hearing was tabled at 7:05 pm.

The hearing reconvened at 8:05 pm.

Mr. Staub called for a representative of Szeles Real Estate. There was no one.

Mr. Turner stated the Board could hear the testimony of the Township Engineer since he is present. It would then have the option to table the hearing again or take action.

Mr. Staub stated that at the previous hearing, the Zoning Hearing Board wanted to know the Township Engineer's position regarding the location and placement of the sign, and what effect it would have upon public safety.

As listed in the memorandum dated February 16, 2010 from Robert Grubic to Dianne Moran, Mr. Fleming stated that the sign location cannot be supported as it is located within the legal right-of-way of a public street (Section 705.A.3). The sign location cannot be supported as it is located within the clear sight triangle and would present an obstruction to motorists entering or exiting the development (Section 705.A.2). The sign height of 5'6" exceeds the allowable height (<3' or >10') for any object within the clear sight triangle (Section 803.C).

Mr. Fleming explained that his comments are based upon the Township ordinance, but additionally on PennDOT's sight distance requirements. The existing sign is located within the clear sight triangle and within the right-of-way, but it is not a permitted sign. Ms. Moran agreed that no permit was issued for the temporary sign.

Mr. Turner marked Mr. Fleming's memo as Township Exhibit 1. He advised that the Board may now take action to grant, deny or table the application. Mr. Turner stated the applicant was mailed a copy of the notice of the hearing by his office. Counsel was copied on that notice. Ms. Moran stated she had a conversation with the applicant. The applicant was aware of the hearing time and date.

There was no comment from the audience.

The Township had no position on the application.

Ms. Cate made a motion to deny the application. Mr. Dowling seconded the motion and a role call vote followed: Mr. Freeburn-Aye; Mr. Sirb-Aye; Mr. Dowling-Aye; Mr. Sirb-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The application was denied. The hearing ended at 8:13 pm.

Respectfully Submitted,



Michelle Hiner
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
: DAUPHIN COUNTY, PENNSYLVANIA
:
SZELES REAL ESTATE : DOCKET NO. 1272

DECISION DENYING VARIANCE

The applicant seeks a variance from various regulations in connection with a proposed neighborhood identification sign. Hearings on the application were held on February 24, 2010 and March 25, 2010.

Facts

1. The applicant and owner of the property in question is Szeles Real Estate Development Company of 945 E. park Drive, Suite 201, Harrisburg, Pennsylvania 17111. Appearing on behalf of the applicant at the February meeting were B.L. Cos, consultant, and Alarick Butcher, Project Engineer. The applicant was represented at the February hearing by Susan Smith, Esquire. The applicant did not attend the March hearing.

2. The property in question is located at the intersection of Creeks Crossing Drive and Lyter's Lane in Lowe Paxton Township. Creeks Crossing Drive serves as the primary point of access to two proposed new residential developments known as Spring Hill and Spring Creek Hollows.

3. The applicant proposes to erect an entry way sign in the center island of Creeks Crossing Drive, approximately 45 feet from the right of way of Lyter's Lane. This sign would be 19'4" long and 5'6" tall at its highest point. The sign would be of masonry construction.

4. At the request of the Board, the Township Engineer performed a sight evaluation. Their study revealed that the sign would be located within the clear sight

triangle and would obstruct motorists entering or existing the development. In addition, the side height would exceed the maximum height for any object within the clear sight triangle and its location is within the legal right of way of the street.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the Township Engineer and the applicant's representatives appeared at the hearings.

Conclusions

1. Article 705.A of the ordinance prohibits signs within the right of way or the sight triangle. Article 803.C prohibits any object between the height of 3 feet and 10 feet within the sight triangle. The proposed sign would violate these provisions of the ordinance.

2. Section 1137.04 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that no hardship exists to justify the variance requested. There are no irregular topographical features which restrict the reasonable use of the applicant's property.

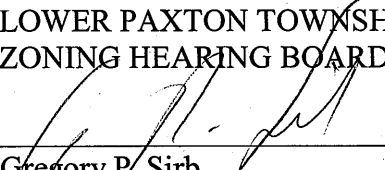
4. Granting the variance would be contrary to the public welfare. The sign creates a potential traffic hazard as testified to by the Township Engineer, which testimony the Board finds to be credible.

Decision

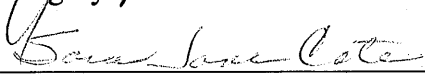
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby denied.

Date: 4/22/10

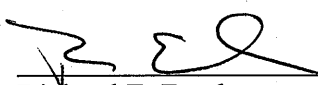
LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



Gregory P. Sirb



Sara Jane Cate



Richard E. Freeburn



David B. Dowling



Jeffrey W. Staub

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 25, 2010

Members in Attendance

Jeffrey Staub, Chairman
Sara Jane Cate, Vice Chairperson
David Dowling
Richard Freeburn

Also in Attendance

Dianne Moran, Planning & Zoning Officer
James Turner, Solicitor

Docket #1273

Applicant: Carol Bretz Bartoski, for Viola Bretz
Address: 127 Old Ford Drive, Camp Hill, PA 17011
Property: 418 & 420 Trudy Road
Interpretation: Minimum lot area is 20,000 square feet.
Proposed lot sizes: 12,017.50 and 13,282.50
Grounds: Section 307.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.
Fees Paid: January 19, 2010
Property Posted: February 16, 2010
Advertisement: Appeared in The Paxton Herald on February 10 & 17, 2010
The hearing began at 7:00 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicants had no objection to its doing so.

The following were sworn in: John Melham, President of Melham Associates, North Front Street; and Dianne Moran, Planning & Zoning Officer.

Mr. Melham introduced Viola Bretz, the owner of the properties, Viola's daughter Carol and Carol's husband, and Ken Bretz.

Mr. Melham stated that Ms. Bretz owns and resides at 420 Trudy Road. She also owns 418 Trudy Road. Her home was built around 1962, and each lot complied with the R-1 requirements in place at the time. The house was inadvertently built slightly over the line between the two lots. He stated that it was brought to the attention of the Township a long time ago and it was not a concern. The two lots are on two separate tax bills, so legally she could sell the lots separately as is. The purpose in coming to the Zoning Hearing Board is to rectify the situation by moving the common lot line enough to make the house comply with the 15-foot side yard setback. They cannot comply with the minimum lot size requirement.

Mr. Melham presented an aerial photograph showing the two lots and surrounding subdivision. The subject lots are marked as Lot 110 (420 Trudy Rd) and Lot 123 (418 Trudy Rd.) The subdivision was built and occupied sometime prior to 1970, well before the current zoning requirements were established in 1989.

The tax map with the aerial overlay shows the lots as they exist, and the proposed correction. When the lots are corrected, the frontage of 420 Trudy Road will change from 100 feet to 115.5 feet, and the frontage of 418 Trudy Road will change from 120 feet to 104.5 feet. Each lot conforms or exceeds the average of the surrounding development. This proposed change will not have any impact on the neighborhood. The proposed change will allow the vacant lot at 418 Trudy Road to be sold without any encumbrance.

Mr. Freeburn stated the request seems reasonable. Ms. Cate agreed.

Mr. Staub asked if the vacant lot is buildable as it exists without the variance. Ms. Moran answered yes.

Mr. Turner asked if the building envelope has been reviewed on 418 Trudy Road, and if it is adequate to build a single family dwelling similar to the homes in the area. Mr. Melham directed the Board to the proposed subdivision plan which shows the building envelope including the setbacks. A new home could be built that would be 78-80 feet long, which is more than adequate.

There was no comment from the audience.

The Township had no position on the application.

Mr. Turner marked the plot plan/tax map as Applicant's Exhibit 1.

Ms. Cate made a motion to grant the application as submitted. Mr. Freeburn seconded the motion and a role call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye, and Mr. Staub-Aye.

The variance was granted and the hearing ended at 7:15 pm.

Respectfully Submitted,



Michelle Hiner
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
CAROL BRETZ BARTOSKI : DOCKET NO. 1273

DECISION GRANTING VARIANCE

The applicant seeks a variance from minimum lot area requirements. A hearing on the application was held on February 25, 2010.

Facts

1. The applicant Carol Bretz Bartoski, of 127 Old Ford Drive, Camp Hill, Pennsylvania 17011. The application was submitted on behalf of the applicant's mother, Viola Bretz, the owner of the property in question. Also appearing on behalf of the applicant was John Melham.

2. The property in question consists of two adjoining parcels located on the west side of Trudy Lane. The northern lot is 120 feet wide and 115 feet deep and is unimproved. The southern lot is 100 feet wide and 115 feet deep and is improved with a single family dwelling which encroaches 0.5 feet onto the northern lot.

3. The applicant proposes to remove 15.5 feet from the northern lot and add it to the southern lot. The new southern lot will have a lot area of 13,282.50 square feet while the northern lot will have an area of 12,017.50 square feet.

4. The new northern lot will have a building envelope which will allow the erection of a single family dwelling without variance.

5. The revised lots are comparable to the sizes of existing lots in the neighborhood, which is well established.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant appeared to testify either in favor of or against the proposed variances.

Conclusions

1. Section 307.A of the ordinance requires a minimum lot area of 20,000 square feet where public water and sewer are provided. The proposed lots as revised violate this section of the ordinance.

2. Section 1137.04 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the properties in question are burdened by a hardship in that their creation predates the current ordinance requirements and there is no way to expand either lot.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The lots as proposed are comparable to the existing pattern of development and the proposed new northern lot can easily accommodate a dwelling of the type predominant in the neighborhood. Shifting the common property line slightly to the north will allow the required setbacks to be met

on the existing southern lot, while still allowing the development of an existing building lots.

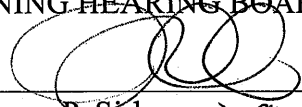
Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the subdivision of the two existing lots at 418 and 420 Trudy Road into two new lots as set forth on applicant's plan dated January 15, 2010. This approval is conditioned upon the applicant otherwise complying with the requirements of the subdivision process.

Date:

3/25/10

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

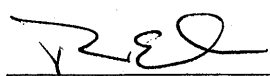


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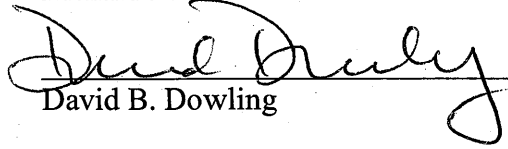

Jeffrey W. Standa



Sara Jane Cate



Richard E. Freeburn



David B. Dowling

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 25, 2010

Members in Attendance

Jeffrey Staub, Chairman
Sara Jane Cate, Vice Chairperson
David Dowling
Richard Freeburn

Also in Attendance

Dianne Moran, Planning & Zoning Officer
James Turner, Solicitor

Docket #1274

Applicant: Daniel Schiavoni

Address: 2401 N. Front Street, Harrisburg, PA 17110

Property: 6690 Linglestown Road

Interpretation: Minimum lot width measured at the building setback line is 140 feet.

Grounds: Section 307.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: January 21, 2010

Property Posted: February 16, 2010

Advertisement: Appeared in The Paxton Herald on February 10 & 17, 2010

The hearing began at 7:16 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

The following were sworn in: Matthew Witters, H. Edward Black & Associates, 2403 N. Front Street, Harrisburg; and Dianne Moran, Planning & Zoning Officer.

Mr. Witters introduced Chris Black also from H. Edward Black & Associates, and Dan Schiavoni, property owner. He presented a color rendering of the plans submitted to the Board prior to the hearing. Mr. Turner marked the plan as Applicant's Exhibit 1. Mr. Turner asked if color is the only difference between the plans submitted and the one being shown on the easel. Mr. Witters stated the only additional change is the layout of the driveway which services the rear lot. The proposed property lines have not changed.

Mr. Witters stated the site is located at 6690 Linglestown Road. It is on the north side of the road across from Sasha's restaurant. It is currently the home of Walter's Tractor Service. The lot is 7.2 acres in size. The front lot will continue to be Walter's, and the two to the rear will be developed as single-family residential lots with a shared driveway. All three lots meet the minimum area requirements.

The only variance is for minimum lot width. The minimum lot width is measured at the minimum setback line of 40 feet. If it were measured at the proposed building setback line, it would comply.

Mr. Dowling asked the zoning of the property. Mr. Witters stated it is zoned AR, Agricultural Residential District.

Mr. Freeburn stated there have been similar cases over the years, none of which were any major problem.

Mr. Dowling asked about the reconfiguration of the driveway. Mr. Witters explained that they can minimize the disturbance of the wetlands by moving the driveway to the east towards the center of the site.

Ms. Cate asked about the tractor place. Mr. Witters stated that Walter's will remain where it is. He noted that they will make some of the gravel areas smaller to meet the minimum requirements for impervious coverage.

Mr. Dowling asked about the topography of the lots. Mr. Witters stated it slopes down towards the wetlands and then back up again as you travel north.

Mr. Staub asked about public sewer service, and suggested that the closest public sewer is on Parkway East. Mr. Witters agreed that is correct, and noted they are investigating a low-pressure small diameter forced main which will be fed by three grinder pump systems. The laterals are shown on the plan and there is a forced main that will run down the north shoulder of Linglestown Road to Parkway East. They are working on the permit application for PennDOT, and coordinating with the Township Authority.

Mr. Staub asked if Mr. Weaver is aware of the proposal. Ms. Moran answered that he is. Mr. Staub asked if Mr. Weaver offered any comments about it. Ms. Moran stated that Mr. Weaver indicated he wants to look at the design of it at the subdivision stage of the process to determine if anyone else may benefit from the extension. Mr. Staub asked if the developer is unsuccessful with DEP or PennDOT or the Authority, if the lots are large enough to support an on-lot septic system. Ms. Moran stated they are large enough.

Mr. Staub asked if it is possible to reconfigure the lots to meet the required lot width. Mr. Witters stated it is possible, but they would have to reconfigure the front lot. Mr. Staub stated they have granted variances for one additional lot in the rear, but couldn't recall if there have been any for more than one. The other Board members thought there was at least one other request similar to this one.

Mr. Witters stated Mr. Schiavoni will develop the rear lot for his own use, and keep the middle lot for his son.

Mr. Staub asked if there are improvements planned for Walter's, such as general housekeeping.

Daniel Schiavoni, 2401 N. Front Street, or 1372 N. View Lane, Harrisburg, PA, was sworn in.

Mr. Schiavoni stated he bought the property when Walter was in financial trouble, with the intention of cleaning it up when spring came. Walter was unable to do that before, but Mr. Schiavoni does not want to live behind it as it looks now. Mr. Staub agreed that was good news.

Mr. Schiavoni stated he will macadam the driveway a couple hundred feet to where it splits. He would also like to macadam the area on the east side of Walter's, plant trees and clean up the site.

Mr. Staub asked if Mr. Schiavoni is the current owner. Mr. Schiavoni answered yes.

Mr. Staub called for comments from the audience.

Mike Swank, 6720 Linglestown Road, was sworn in. Mr. Swank asked how the sewer line would affect him. Mr. Witters stated Mr. Swank could hook on, but would not be required to. Mr. Swank stated he does not have any problems with the application since the owner will be living in the back. He was glad to hear that Walter's would be cleaned up, and that there would not be a bunch of homes built.

The Township had no position on the application.

Mr. Freeburn made a motion to grant the variance as submitted. Mr. Dowling seconded the motion and a roll call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 7:35 pm.

Respectfully Submitted,



Michelle Hiner
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
DANIEL SCHIAVONI : DOCKET NO. 1274

DECISION GRANTING VARIANCE

The applicant seeks a variance from minimum lot width requirements. A hearing on the application was held on February 25, 2010.

Facts

1. The applicant and owner of the property in question is Daniel Schiavoni of 2401 North Front Street, Harrisburg, Pennsylvania. Appearing with the applicant was Matthew Witters of H. Edward Black & Associates.

2. The property in question is located on the north side of Linglestown Road and consists of a roughly rectangular parcel with a total area of 7.51 acres. The parcel is approximately 250 feet wide and over 1100 feet deep. The parcel is zoned Agricultural-Residential, AR.

3. The front portion of the property is improved with a one story metal building and surrounding parking area used for farm equipment sales and services. The rear of the parcel is undeveloped.

4. The applicant proposes to subdivide the parcel into three lots. The existing building would be on Lot 1, a 2.0 acre parcel which would meet all Township zoning requirements. The remainder of the parcel would be divided into two parcels with an area of 2.07 acres and 3.44 acres. Each of these parcels would be panhandle lots with 50 feet of frontage although a common driveway is proposed. The resulting buildable area is sufficiently sized to allow a house which meets all applicable setback requirements.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. In addition to the applicant and his representative, a neighboring property owner appeared before the Board. He had no objection to the proposed variance but expressed concern about the maintenance of the existing commercial business.

Conclusions

1. Article 307.A of the ordinance establishes the minimum building width requirements in the AR zone as 140 feet. The proposed lots in the rear of the property would violate this section of the ordinance.

2. Section 1137.04 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of the property's irregular shape. Its extreme depth in relationship to its width makes subdivision impossible while maintaining the required setbacks.

4. Granting the variance will not alter the essential character of the neighborhood nor be contrary to the spirit of the ordinance. The resulting lots have building pockets which will easily accommodate normal residential uses without the need


for setback variances. As a result of the single drive and the property's depth the average passerby will not even be aware of the variance.

Decision

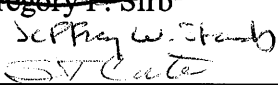
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the subdivision of the property in strict conformity with the plans and testimony submitted to the Board.

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD


Date: 3/25/10



~~Gregory P. Sirb~~



Jeffrey W. Stamb



Sara Jane Cate

Richard E. Freeburn



David B. Dowling

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of February 25, 2010

Members in Attendance

Jeffrey Staub, Chairman
Sara Jane Cate, Vice Chairperson
David Dowling
Richard Freeburn

Also in Attendance

Dianne Moran, Planning & Zoning Officer
James Turner, Solicitor

Docket #1275

Applicant: The Point Associates, LP
Address: 3307 Trindle Road, Camp Hill, PA 17011
Property: 35-074-040, Union Deposit Road, Point Shopping Center
Interpretation: Moving a sign abandons its preexisting nonconforming status.
The applicant proposes to relocate an existing freestanding sign for AC Moore approximately 150 feet to AC Moore's new location.
Ground signs are permitted one square foot for each four feet of frontage within a planned center, in no case shall a planned center sign exceed 100 square feet. One planned center sign is permitted per frontage.
The property has four frontages, and seven freestanding signs.

Grounds: Sections 713.A, and 714.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: January 27, 2010
Property Posted: February 16, 2010
Advertisement: Appeared in The Paxton Herald on February 10 & 17, 2010
The hearing began at 7:37 pm.

Mr. Staub stated it is customary for the Board to enter as exhibits the application and site plans. The applicants had no objection to its doing so.

Mr. Staub asked if the reason for the application is that they propose to move the sign, so they will lose the nonconforming status. Ms. Moran stated that is correct. He asked if they would still need a variance if they opted for changing the freestanding sign to a wall sign. Ms. Moran stated they would need a variance to be allowed a second wall sign for that suite.

The following were sworn in: Tom Richey, 3307 Trindle Road, Camp Hill, PA; and Dianne Moran, Planning & Zoning Officer. Mr. Richey stated he is President of Development and Construction, for Cedar Shopping Centers, the parent company which owns The Point Associates. He has been with them for twelve and a half years. Mr. Ron Lucas was present on behalf of the applicant.

Mr. Richey explained he is very familiar with the Point Shopping Center. In 1999/2000, they undertook an extensive reconfiguration of the shopping center. It was retenanted with Giant and Staples at that time. The parking lot layout and lighting were reconfigured at that time as well. The entrance at East Park Drive was signalized during this time.

Mr. Richey explained the drawing and the location of the existing stores, including the AC Moore store.

Mr. Lucas asked about Giant's interest in expanding. Mr. Richey stated that Giant has been very successful at this location, but it is only 55,000 square feet. Since 2005, Cedar Shopping Centers has been in discussions with Giant on how to affect that expansion. The current prototype for Giant Stores is 73,000 square feet. The square footage of the store in Colonial Commons is between 65,000 and 70,000. The store on Linglestown Road is 98,000 square feet, so it is not a good comparison.

Mr. Richey stated they had to remove Fashion Bug, and renew and relocate the AC Moore store. Mr. Lucas asked Mr. Richey what would happen if Giant could not have any additional space for expansion. Mr. Richey stated they may look elsewhere.

Mr. Richey explained they propose to tear down the existing AC Moore building, and expand the Giant into the new construction. There would be a new building about 60 feet wide and 6,000 square feet, which Fashion Bug has the right of first refusal.

Mr. Richey stated that AC Moore has a sign that faces the highway, which has been there since the building was built in the 1970's. It was originally the Thrift Drug Store.

Mr. Lucas asked about the importance of the sign that faces the highway for AC Moore. Mr. Richey stated every sign is important to a retailer, but this one is especially important because of the orientation of the shopping center, and for the fact that AC Moore signage is not located on any of the other pylon signs. There is no room for AC Moore on the other pylons. As a part of the negotiations, AC Moore asked for a guarantee that the sign can be relocated. He explained to them that he was in no position to do so, but would put his best effort forth.

Mr. Lucas asked about the relocation of the sign. Mr. Richey stated they propose to physically relocate the sign and poles. The size of the sign will not change. The sign panel may be upgraded, and the sign poles may need to be rehabilitated. The poles are intended to be the same color of the building so they are unnoticeable.

Mr. Lucas asked about the turnover of tenants. Mr. Richey stated there are three vacancies (Readings & Greetings, Family Restaurant, and Skate Shop). Fashion Bug has occupied the Thrift Drug building, but only the front of it. The rear of the space was vacant.

Mr. Lucas asked about the affect of the expansion of Giant. Mr. Richey stated it will enhance the center and attract new tenants.

Mr. Lucas asked about the existing wall sign on the front of AC Moore. Mr. Richey stated that in 1999/2000, the AC Moore sign was relocated, and it is rather large and nonconforming. That sign will be scrapped, and the new sign will be in conformance with the sign regulations. The sign will be reduced in size. Over the years, as opportunities present themselves, they are trying to get the center closer to compliance. Prior to the 1999 renovations, there was over 3,600 square feet of signs, and they are down to about 2,900 square feet.

Mr. Lucas asked about the number of signs. Mr. Richey stated that, depending on how you count the signs, there are seven freestanding signs.

Mr. Lucas stated that the only issue is moving the sign. Mr. Richey stated that is correct, and they are reducing the area of the wall sign.

Mr. Richey stated that the relocation will not change the character of the neighborhood.

Mr. Staub asked about the other freestanding signs, and the lack of space for AC Moore. Mr. Richey stated there is one empty panel at the entrance off of Union Deposit Road, which Fashion Bug was on. Since Fashion Bug may come back into the new construction, the space on the sign is unavailable. There is one panel at the top of the multi-tenant sign behind the Dollar Tree. Burlington Coat Factory owns the rights to that sign since 1999. Burlington has chosen not to utilize the space, but has also refused to give it back to the center.

Mr. Staub suggested it might be more useful to have a freestanding sign along Union Deposit Road instead of I-83. Mr. Richey stated that national retailers in general very much enjoy signage. Everyone who already shops AC Moore knows where it is, and the sign along the highway is viewed by the 10,000 cars that pass by. That is more valuable to a retailer. Mr. Lucas stated that Giant also has a sign to the rear. Mr. Richey stated that Wine & Spirits has a sign that faces the highway, but after the recent robbery, they have covered it up. They do not feel the extra advertising is a benefit.

Mr. Staub noted that a number of variances have been granted for this center over the years, and he asked if there was an overall variance governing the whole center. Mr. Turner stated there is not any comprehensive master variance, such as was done for Colonial Commons; each of these are on a case by case basis.

Mr. Turner stated the existing AC Moore sign appears to protrude above the roof line of the building. He asked if the relocated sign will be below the roof line of the new building. Mr. Richey stated the new AC Moore structure is taller, but the sign will still protrude slightly above, but not as much as it does currently.

Mr. Staub called for comments from the audience. There was none.

The Township had no position on the application.

Mr. Freeburn made a motion to grant the variance as submitted. Mr. Dowling seconded the motion and a role call vote followed: Mr. Freeburn-Aye; Mr. Dowling-Aye; Ms. Cate-Aye; and Mr. Staub-Aye.

The hearing ended at 8:01 pm.

Respectfully Submitted,



Michelle Hiner
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
THE POINT ASSOCIATES, L.P. : DOCKET NO. 1275

DECISION GRANTING VARIANCE

The applicant seeks variances in connection with the relocation of an existing nonconforming sign. A hearing on the application was held on February 25, 2010.

Facts

1. The applicant and owner of the property in question is The Point Associates, L.P., of 3307 Trindle Road, Camp Hill, Pennsylvania 17011. Appearing on behalf of the applicant were Tom Richey, President of Development and Construction Division of Cedar Shopping Centers, Inc., the property manager, Todd Schively, an employee of Cedar, and Ronald Lucas, Esquire.

2. The property in question consists of a retail strip shopping center located on the southeast corner of Union Deposit Road and Interstate 83.

3. The applicant is expanding the space occupied by a grocery store on the northwest corner of the site. To accommodate this expansion, an existing tenant, AC Moore, is being relocated to the south into an existing empty space.

4. An existing pylon sign is located on the rear of the AC Moore retail space directed toward Interstate 83. This sign has been in place since the 1970s and is one of seven freestanding signs on the property.

5. The applicant proposes to relocate the existing freestanding sign to the rear of its new retail space. Again, the sign will be directed toward Interstate 83. A new sign will be placed on the front of the new store. This new front sign will be smaller in

area than the existing front sign. AC Moore is not represented on the main shopping center pylon sign.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant appeared to testify either in favor of or against the proposed variances.

Conclusions

1. Section 713.A of the ordinance allows nonconforming signs to remain in place but does not allow their relocation. Section 714(A) limits the number of freestanding signs on the subject property to four. The property presently has seven.

2. Section 1137.04 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the applicant faces a hardship in that the existing rear pylon sign predates the present zoning ordinance and that the tenant is not otherwise represented on the pylon signs for the shopping center.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The sign will have the same visual impact as the existing sign. Its orientation toward the interstate highway

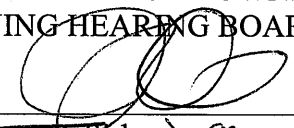
guarantees that it will have no impact on residential properties. The total number of freestanding signs on the property will be the same as the existing sign. Overall sign area on the site will be decreased by the reduction in the front sign.

Decision

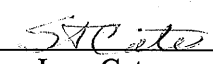
In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted allowing the relocation of the existing pylon sign in strict conformity with the plans and testimony submitted to the Board.

Date: 3/25/10

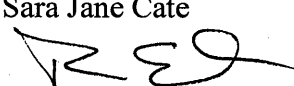
LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



~~Gregory E. Erb~~ Jeffrey W. Stank



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